Remarks:

Responsive to the new ground of rejection contained in the Examiner's Answer dated July 16, 2008 (the "Examiner's Answer"), Applicant respectfully requests that prosecution be reopened. Reconsideration of the application, as amended herein, is respectfully requested.

Claims 2 - 15 and 17 - 21 are presently pending in the application. Claims 2 and 15 have been amended in response to the new ground of rejection presented in the Examiner's Answer. Claims 1 and 16 were previously canceled. As it is believed that the claims were patentable over the cited art in their previously presented form, the claims have not been amended to overcome the references.

As noted above, the Examiner's Answer that was filed in connection with the Appeal formerly pending in the present case included a new ground of rejection on pages 2 - 3, thereof. More particularly, page 3 of the Examiner's Answer further rejected the currently pending claims 2 - 15 and 17 - 21 under 35 U.S.C. § 101, stating, in part:

> Claims 2 - 15 and 17 - 21 are rejected under 35 U.S.C. § 101 based on Supreme Court Precedent, and recent Federal Circuit decisions, a § 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. [citations omitted] **The process steps in claims (2-15 and 17-21) are not tied to another**

> **statutory class nor do they execute a transformation. Thus, they are non-statutory.**

Applicant respectfully traverse the above rejections.

First, Applicant's claims, as previously presented, are believed to "execute a transformation", in contrast to the statement made on page 3 of the Examiner's Answer. More particularly, Applicant's independent claim 2 recites, among other limitations:

> (e) **after step (d), paying, by the consumer, of at least one of interest and late fees on the first amount, in accordance with the parameters set in step** (b), wherein the at least one of interest and a late fee is added to the remaining credit to form a new stored credit available to the consumer; [emphasis added by Applicant]

As such, **a transformation to occur** in Applicants' independent claim 2 when, among other things, **a new stored credit is created in response to the consumer making a payment of at least one of interest and late fees on a first amount debited as a result of a financial transaction using the financial card in accordance with preset parameters.** Thus the method of claim 2 performs a transformation in response to a stimulus from the consumer.

Similarly, Applicant's independent claim 15 recites, among other limitations:

> (e) after step (d), **crediting to the remaining credit, at least one of interest and late fees on the first amount, paid by the consumer, which said at least one of interest and late fees accrued in accordance with the parameters set in step (b)**, wherein the at least one of interest and a late fee is added to the remaining credit to form a new stored credit available to the consumer; [emphasis added by Applicant]

As such, **a transformation occurs** in claim 15 **with the formation of the a new stored credit, when the consumer makes a payment of at least one of interest and late fees, accrued in accordance with preset parameters.**

The Court of Appeals for the Federal Circuit found the transformation of data be a "transformation" under 35 U.S.C. § 101 in the case of *State Street Bank & Trust Company v. Signature Financial Group, Inc.*, 149 F.3d 1368 (Fed. Cir. 1998), 47 USPQ2d 1596. In *State Street*, the court stated, in part:

> Today, we hold that **the transformation of data**, representing discrete dollar amounts, by a machine through a series of mathematical calculations into a final share price, **constitutes a practical application of a mathematical algorithm, formula, or calculation, because it produces "a useful, concrete and tangible result"**--a final share price momentarily fixed for recording and reporting purposes and even accepted and relied upon by regulatory authorities and in subsequent trades. [emphasis added by Applicant]

As such, the methods of Applicant's independent claims 2 and 15 provide a "transformation", and thus, are statutory subject matter under 35 U.S.C. § 101.

Applicant's independent claim 22, which requires, among other limitations, **a** billing system **that generates a statement** detailing the debits to the stored credit and any interest or late fees due in accordance with the preset parameters, and which is transmitted to the consumer, was not part of the new grounds for rejection presented in the Examiner's Answer. However, Applicant notes that certain of Applicant's claims depending from the rejected process claims 2 and 15 additionally recited, among other limitations, sending a statement generated in the method to the consumer, and thus clearly produced a transformation. See, for example, claim 17 of the instant application.

Further, Applicant respectfully disagrees with the statement made in the Examiner's Answer alleging that "a § 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing". Rather, M.P.E.P. § 2106(IV)(C)(2) states, in part:

> A claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it:

> (A) "transforms" an article or physical object to a different state or thing; or
>
> (B) **otherwise produces a useful, concrete and tangible result**, based on the factors discussed below. [emphasis added by Applicants]

As such, M.P.E.P. § 2106 recognizes that a claimed invention constitutes statutory subject matter under 35 U.S.C. § 101 if it "transforms" an article or physical object **or** if it "**otherwise produces a useful, concrete and tangible result**".

Applicant's claimed invention produces a useful, concrete and tangible result, and thus, is statutory subject matter under 35 U.S.C. § 101. More particularly, as discussed above,

Similarly, Applicant's independent claims 2 and 15, requiring, among other things, **the creation of a new stored credit available to the consumer**, i.e., available meaning useful, concrete and tangible to the consumer. Thus, by making a new stored credit **available to the consumer**, Applicant's claims 2 and 15 have produced a useful, concrete and tangible result.

However, in the interest of furthering prosecution, Applicant has amended claims 2 and 15 to make the tangibility of the results produced by those processes even more clear. More particularly, Applicant has amended claims 2 and 15 to further recite, among other limitations:

(e2) providing information relating to the new stored credit formed in step (e1) to the consumer.

As such, Applicant's process claims now require, among other limitations, that information relating to the new stored credit formed in accordance with the methods of those claims **be provided to the consumer**. As such, the processes of Applicants' independent claims 2 and 15 now even more clearly produce a useful, concrete and tangible result. As a result of Applicant's claimed methods, the consumer is provided with information relating to the new stored credit, which is useful, concrete and tangible. **The provision of such information was found to be statutory subject matter** under 35 U.S.C. § 101, by the Court of Appeals for the Federal Circuit in *State Street*, which stated, in part:

> The question of whether a claim encompasses statutory subject matter should not focus on which of the four categories of subject matter a claim is directed to--process, machine, manufacture, or composition of matter--but rather on the essential characteristics of the subject matter, in particular, its practical utility. Section 101 specifies that statutory subject matter must also satisfy the other "conditions and requirements" of Title 35, including novelty, nonobviousness, and adequacy of disclosure and notice. See In re Warmerdam, 33 F.3d 1354, 1359, 31 USPQ2d 1754, 1757-58 (Fed.Cir.1994). For purpose of our analysis, as noted above, claim 1 is directed to a machine programmed with the Hub and Spoke software and admittedly produces a "useful, concrete, and tangible result." Alappat, 33 F.3d at 1544, 31 USPQ2d at 1557. **This renders it statutory subject matter, even if the useful result is expressed in numbers, such as price, profit, percentage, cost, or loss.** [emphasis added by Applicant]

As such, the information of the new stored credit generated by the particular methods of Applicant's claims 2 and 15 and provided to the consumer, in the words of the Federal Circuit, "**renders it statutory subject matter, even if the useful result is expressed in numbers, such as price, profit, percentage, cost, or loss**".

For the foregoing reasons, among others, Applicant's claims are believed to be statutory subject matter under 35 U.S.C. § 101.

Additionally, in item 10 of the Final Office Action mailed September 6, 2007 (the "Office Action"), claims 2 - 4, 6, 9, 10 and 13 - 22 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over The Bank Credit Card Business, American Bankers Association ("**ABA**"), in view of U. S. Patent Application Publication No. 2003/0041025 to Bonalle et al ("**BONALLE**"), and further in view of 401(k) Too Nice To Pinch, Eileen Ambrose ("**AMBROSE**"). In item 27 of the Office Action, claims 5, 11, and 12 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over **ABA** in view of **BONALLE**, and further in view of **AMBROSE**, and further still in view of "Orchard Credit Cards" ("**ORCHARD**"). In item 31 of the Office Action, claims 7 and 8 were rejected under 35 U.S.C. § 103(a)

as allegedly being obvious over **ABA**, in view of "PSECU Capitol Card" ("**PSECU**").

As set forth in Applicant's Appeal Brief filed May 17, 2008, Applicant respectfully traverses the above claim rejections.

I. **Applicant's claims 2 - 4, 6, 9, 10, 13 - 15 and 17 - 22 are not obvious over The Bank Credit Card Business by American Bankers Association in view of Bonalle et al., U.S. Patent Application Publication 2003/0041025 and further in view of 401(k) too nice to pinch by Eileen Ambrose under 35 U.S.C. § 103.**

In item 10 of the Office Action dated September 6, 2007 (the "**final Office Action**"), claims 2 - 4, 6, 9, 10 and 13 - 22 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over The Bank Credit Card Business, American Bankers Association ("**ABA**"), in view of U. S. Patent Application Publication No. 2003/0041025 to Bonalle et al ("**BONALLE**"), and further in view of 401(k) Too Nice To Pinch, Eileen Ambrose ("**AMBROSE**").

Appellant respectfully traverses the above rejections.

A. **The combination of the ABA, BONALLE and AMBROSE references fails to teach or suggest, among other limitations of Appellant's claims, establishing a pre-paid, stored credit, corresponding to funds advanced by the consumer, that is debited in accordance with purchases made by the consumer, and which requires repayment according to**

parameters set by the consumer, as required by Appellant's independent claims 2, 15 and 22.

More particularly, Appellant's independent claim 2 recites, among other limitations:

> (a) **establishing a stored credit on behalf of a consumer corresponding to an amount advanced by the consumer**;
>
> (b) **setting parameters for repayment of amounts borrowed from the stored credit**, wherein the parameters for repayment include parameters for at least one of a payment of interest and a payment of late fees, **the parameters being set by the consumer**; [emphasis added by Appellant]

Similarly, Appellant's independent claim 15 recites, among other limitations:

> (a) **establishing a stored credit in a financial institution on behalf of a consumer, corresponding to an amount advanced by the consumer**;
>
> (b) **setting parameters for repayment of amounts borrowed from the stored credit**, wherein the parameters for repayment include parameters for at least one of the payment of interest and the payment of late fees, **the parameters being set by the consumer**; [emphasis added by Appellant]

Additionally, Appellant's independent claim 22 recites, among other limitations:

> **a record of a credit stored by a consumer** at the financial institution;
>
> . . .
>
> **a billing system for managing said stored credit according to parameters set by the consumer**, wherein

> said billing system debits said stored credit in accordance with purchases made using said debit card;
>
> **said billing system generating a statement detailing said debits to said stored credit and any interest or late fees due in accordance with said parameters**, said billing system **further debiting an amount of said debits from the record of the stored credit** and **crediting said stored credit** in the amount of any repayments of debits, payments of late fees and payments of interest made by the consumer; [emphasis added by Appellant]

As such, Appellant's claims 2 and 15 require, among other limitations, a stored credit that **corresponds to an amount advanced by the consumer**. Similarly, Appellant's claim 22 requires, among other limitations **a credit stored by the consumer**. As such, Appellant's claims clearly require that the amount of the stored credit available to the consumer to correspond to the amount previously provided to the financial institution **by the consumer**.

Additionally, Appellant's claimed stored credit is not merely the security or collateral for a line of credit to the consumer. Rather, Appellant's claims require, among other things, that **the cost of purchases made by the consumer be debited from the amount of the stored credit**. For example, Appellant's claim 2 requires, among other limitations:

> (d) **causing a first amount to be debited from the stored credit, as a result of a financial transaction using the financial card**, resulting in a remaining credit; [emphasis added by Appellant]

Appellant's independent claim 15 recites, among other limitations:

> (d) **debiting a first amount from the stored credit as the result of a financial transaction using the financial card**, resulting in a remaining credit; [emphasis added by Appellant

Similarly, Appellant's independent claim 22 requires, among other limitations:

> a billing system for managing said stored credit according to parameters set by the consumer, wherein **said billing system debits said stored credit in accordance with purchases made using said debit card**; [emphasis added by Appellant

Thus, Appellant's claims require a stored credit, **pre-paid by the consumer**, that is **debited in accordance with purchases made using a financial/debit card**. As such, as stated above, the money advanced by the consumer is not used as the security for a line of credit, but rather, is a stored credit that is actually debited in accordance with purchases made by the consumer using the financial card.

The principles and rules that govern secured credit cards are different from Appellant's claimed invention. The secured credit card is a product for people with poor or no credit history; which is approved only when the applicant can pledge cash upfront to use as collateral for an equal amount of credit extended (Ex: a $500 credit limit in exchange for a

$500 savings deposit). However, with a secured credit card, collateral cannot be withdrawn unless debt is paid off (i.e., saving are off limits. Additionally, with a secured credit card, the banks pays a low annual interest on the saving, but charges a higher than average rate on the money borrowed from the bank. Additionally, with a secured credit card the bank charges the consumer bank determined fees and penalties. This is not the case in Appellant's claimed invention, were the consumer is using his own money and setting his own repayment parameters, including parameters relating to interest and/or late fees.

Further, Appellant's claims 2 and 15 specifically require, among other limitations, that **the parameters for repaying the amounts debited from the pre-stored credit, be set by the consumer**. Correspondingly, Appellant's independent claim 22 requires, among other limitations, **a billing system generating a statement detailing debits to the stored credit** (i..e, the credit "stored by a consumer"), **and any interest or late fees due in accordance with the parameters set by the consumer**. The setting of the parameters by the consumer is supported by the specification of Appellant's originally filed application, for example, on page 7 of the originally filed application, line 13 - page 8, line 8, (corresponding to paragraphs [0026]

- [0032] of the published application US 2005/0228749), which lines state, in part:

> The process of issuing and using the financial card proposed in this invention would work as follows: **The customer would**
>
> Establish a savings account with any bank and strictly for the purpose of making transactions using the financial card proposed here.
>
> Request the financial card from the bank.
>
> **Set the maximum amount** the savings account can be charged against. In other words **set the minimum acceptable balance.**
>
> **Set the interest rate allowed** to be charged for the use of the funds.
>
> **Set the monthly minimum payment** as a percentage of the funds owed.
>
> **Set the monthly fee for late or default payments.** [emphasis added by Appellant]

As such, the specification of the instant application, **as filed**, clearly disclosed the concept of the consumer/customer **setting the operating parameters of the account** (i.e., setting the monthly fee for late or default payments, setting the monthly minimum payment for funds owed, setting the charge rate allowed for use of the funds, setting the minimum acceptable balance, etc.).

Thus, it can be seen that the invention of Appellant's claims recites and requires, among other things, a **pre-paid, stored credit** (i.e., corresponding to funds advanced by the

consumer) **that is debited in accordance with purchases made by the consumer, and which requires repayment according to parameters set by the consumer**.

The cited references do **not** teach or suggest, among other limitations of Appellant's claims, **a consumer setting the parameters** (i.e., including the payment of interest and late fees) **for the repayment of amounts debited from the consumer's own savings** (i.e., "stored credit", "credit stored by a consumer") **in accordance with purchases made by the consumer**, as required by Appellant's claims.

First, the **ABA** reference fails to teach or suggest, among other limitations of Appellant's claims, establishing a stored credit on behalf of a consumer, corresponding to an amount advanced by the consumer, wherein the consumer sets the parameters for **repayment** of amounts debited from the consumer's own stored credit. Page 4 of **the final Office Action** pointed to pages 183-185 of the **ABA** reference for allegedly showing a consumer storing a credit. However, pages 183-185 of the **ABA** reference merely disclose the traditional use of debit cards. Nothing on pages 183 - 185 of the **ABA** reference teaches or suggests, among other limitations of Appellant's claims, **the consumer setting parameters for repayment of sums used from the cardholder's deposit account.**

In fact, the **ABA** reference **only** discusses **repayments** for purchases made by the consumer using a card in the context of the traditional credit card model, wherein **the consumer repays credit extended by the financial institution** to the consumer.

For example, the **ABA** reference discloses **the financial institution advancing credit** (i.e., not a **stored credit advanced by the consumer**) to a consumer, and arranging for **repayment** of these **credit amounts used.** Nothing in the **ABA** reference teaches or suggests arranging for (i.e., invoicing for) **repayment** of sums **debited from the consumers own deposit account holding the consumer's own money** (i.e., stored credit corresponding to an amount advanced by the consumer). In fact, page 3 of the **ABA** reference, states in part:

> **Bank credit card credit** differs from installment lending in the following ways (see exhibit 1.1):
>
> - **Because the debt is unsecured**, the bank does not have recourse to specific collateral if customer defaults.
> - **The bank's exposure equals or can even exceed the credit line** (for example, if a bank authorizes a request for additional credit or a cardholder exceeds his or her credit line), while with installment lending, the bank's exposure decreases each month the loan is in force.
> - The repayment cycle, and therefore **the term of the loan**, is extended each time the cardholder accesses his or her credit line. [emphasis added by Applicant]

None of the above occurs in Appellant's claimed invention. Rather, because the Appellant is drawing only on **his own pre-stored** funds (i.e., savings), the bank does not have the same risks as with credit cards. In fact, the **ABA** reference specifically teaches away from the invention of Appellant's claims. More particularly, page 7 of the **ABA** reference states, in part:

> The net result is that consumers have found credit cards convenient, widely accepted, safe and flexible. **Credit is immediately available to fund everyday transactions, including when the cardholder wants to avoid using personal funds**. [emphasis added by Appellant]

Clearly, the **ABA** reference teaches away from use of a card for **drawing from the cardholder's personal funds** (i.e., "Credit is immediately available to fund everyday transactions, **including when the cardholder wants to avoid using personal funds**"), and the requirements for the subsequent repayment of these debited funds, as is required by Appellant's claims. This failure of the **ABA** reference is acknowledged on page 5 of **the final Office Action**, which states, in part:

> ABA does not explicitly teach (b) **setting parameters for repayment of amounts borrowed from the stored credit**, wherein the parameters for repayment include parameters for at least one of a payment of interest and a payment of late fees and wherein the at least one of interest and a late fee is added to the remaining credit to form a new stored credit available to the consumer; [emphasis added by Appellant]

Rather, page 5 of **the final Office Action** points to the **BONALLE** reference as allegedly disclosing the setting of parameters for repayment of amounts borrowed from the stored credit, including setting parameters for at least one of a payment of interest and a payment of late fees. Appellant respectfully disagrees.

More particularly, page 5 of **the final Office Action** states, in part:

> Bonalle teaches (b) **setting parameters for repayment of amounts borrowed from the stored credit**, wherein the parameters for repayment include parameters for at least one of a payment of interest and a payment of late fees (see paragraph 11). [emphasis added by Applicant]

However, Applicant respectfully disagrees that **BONALLE** teaches or suggests, among other limitations of Applicant's claims, **setting parameters for repayment of amounts borrowed from the stored credit**, wherein the parameters for repayment include parameters for at least one of a payment of interest and a payment of late fees. Like **ABA**, **BONALLE** discloses a system wherein **credit is extended to a consumer from the financial institution**. See, for example, paragraph [0003] of **BONALLE**, stating in part:

> After applying and qualifying **for a new transaction card account (e.g., credit or charge card)**, a consumer typically receives a card and/or account

> number with an associated finance charge for any late payments or **unpaid balances**. [emphasis added by Appellant]

That **BONALLE** relates to a system for repayment of credit extended **by the financial institution** to a consumer (and not for repayment of use of the consumer's own advanced money), is further supported by paragraph [0011] of **BONALLE**, cited in the **final Office Action**, which states, in part:

> Moreover, one skilled in the art will appreciate that any type of interest rate or finance charge arrangement may be contemplated by the present invention such as, for example, a constant interest rate, a varying interest rate, an interest rate that adjusts throughout different time periods, **application of the interest rate to any portion of the charges or balance**, interest rates that are due weekly, monthly, yearly or any other time period, interest rates based on other factors (e.g., membership status, economic indicators, etc) and/or the like. [emphasis added by Appellant]

See also, for example, paragraph [0009] of **BONALLE**, which states:

> In the typical situation, a consumer 10 applies for a transaction card 12, and if qualified, the issuer sends the consumer 10 a transaction card 12 having an account number 14 associated with a transaction account 34, **wherein the transaction account includes a line of credit with a credit limit 30 and a pre-disclosed set interest rate 36**. The account number 14 may be used by the consumer 10 to charge purchases to the transaction account. With respect to a purchase transaction, after obtaining authorization for the account number 14 and the purchase amount from the card issuer (e.g., American Express, bank or other financial institution), the merchant 18 requests settlement of the charge from the card issuer and the card issuer pays the merchant 18 the value of the

> charge. **The card issuer then sends a bill to the consumer 10 requesting payment by a certain date of the recent charges associated with the transaction account.** If the consumer 10 does not pay the entire amount of the charges, the issuer may add a finance charge related to the unpaid balance on the next billing statement. [emphasis added by Appellant]

As such, **BONALLE** discloses providing the consumer with a credit or charge account including **a line of credit extended by the card issuer** and having a credit limit, wherein interest is charged on **the balance owed to the financial institution** associated with the card. Thus, **BONALLE** certainly does not disclose **the consumer**: 1) **providing an amount to form a stored credit**; and 2) **setting rules for the repayment of the use of the consumer's own money** (i.e., stored credit).

Further, the **AMBROSE** reference was cited on page 5 of the Office Action for allegedly disclosing at least one of interest and a late fee being added to a remaining credit to form a new credit. However, like the **ABA** and **BONALLE** references, **AMBROSE** also fails to teach or suggest, among other limitations of Appellant's claims, **establishing a stored credit on behalf of a consumer**, corresponding to **an amount advanced by the consumer** and **the consumer setting parameters for repayment of amounts debited from the stored credit**.

First, in **AMBROSE**, the 401(K) holder pays interests to himself when he borrows money from his account, however, the author

clearly states in the first paragraph of **AMBROSE** that the 401(K) should not to be viewed as a savings account, but as a tool to build retirement income. In fact, when the account holder borrows against his account he loses the potential gain if the money had remained invested in the account. Also, with the 401K system, the account holder does not have much flexibility and he does not have the autonomy to decide the interests rates, penalties, fees, etc. Further, a traditional 401(k) is usually rule limited to prevent the debiting of the 401(k) for individual financial transactions, as required by Appellant's claims, and for use with a debit card, as additionally required by Appellant's claims.

Further, the holder of a 401(k) is not permitted to **set the parameters for repayment** of debited sums, as required by Appellant's claims. This can be seen from the last sentence of the first page of the cited **AMBROSE** article, which states:

> You repay the loan to yourself with interest, **usually at the prime rate, now at 9.5 percent, or prime plus 1 percentage point.** [emphasis added by Appellant]

The above citation from the **AMBROSE** article accurately states the state of the law for repaying loans from one's 401(k) account at **predefined interest rates set by the plan, and not set by the consumer**, as required by Appellant's claims.

The **ORCHARD** and **PSECU** references, cited in the **final Office Action** against certain dependent claims, in combination with the **ABA**, **BONALLE** and **AMBROSE** references, do not cure the above-discussed deficiencies of the **ABA**, **BONALLE** and **AMBROSE** references. As such, the combination of the **ABA**, **BONALLE**, **AMBROSE**, **ORCHARD** and **PSECU** references still fail to teach or suggest, among other limitations of Appellant's claims, **the consumer setting the parameters for repayment of amounts borrowed from the consumer's own stored credit.**

B. The combination of the ABA, BONALLE and AMBROSE references suggested in the Office Action would impermissibly destroy the express teachings of the ABA reference, if applied to Appellant's independent claims 2, 15 and 22 .

Additionally, Appellant believes that the disclosure of a traditional debit card system on pages 183 - 185 of the **ABA** reference, wherein no repayment of debited funds is required, is **not combinable** with the teaching in the **ABA** reference of repaying **credit advanced by a financial institution**, without destroying the teachings of the **ABA** reference. Page 7 of the **ABA** reference states, in part:

> The net result is that consumers have found credit cards convenient, widely accepted, safe and flexible. **Credit is immediately available to fund everyday transactions, including when the cardholder wants to avoid using personal funds**. [emphasis added by Appellant]

Clearly, the **ABA** reference teaches that the **ABA** system requiring the repayment of credit advanced by a financial institution is to be used **when the cardholder wants to avoid using personal funds**. Thus, **ABA** teaches against tying up and/or actually using the user's personal funds. Modifying the "credit model" of the **ABA** reference to store and borrow from a consumer's personal funds (i.e., the "debit model") would **impermissibly destroy the teachings of the "credit model" of the ABA reference**, while still not teaching or suggesting all limitations of Appellant's claims.

C. **The combination of the ABA, BONALLE and AMBROSE references fails to teach or suggest, among other limitations of Appellant's claims, a consumer's pre-paid, stored credit, being debited in accordance with purchases made by the consumer, and requiring repayment according to parameters set by the consumer, wherein the parameters for repayment include parameters for at least one of a payment of interest and a payment of late fees, as required by Appellant's independent claims 2, 15 and 22.**

As shown in Section I(a) above, the references cited in the **final Office Action** fail to teach or suggest, among other limitations of Appellant's claims, **a consumer setting the parameters for repayment of amounts borrowed from the consumer's own pre-stored credit**. However, Appellant's claims further require, among other limitations, that the parameters **set by the consumer** include **at least one of a payment of interest and a payment of late fees**. More particularly,

Appellant's independent claims 2 and 15 recite, among other limitations:

> (b) setting parameters for repayment of amounts borrowed from the stored credit, **wherein the parameters for repayment include parameters for at least one of a payment of interest and a payment of late fees, the parameters being set by the consumer**; [emphasis added by Appellant]

Additionally, Appellant's independent claim 22 recites, among other limitations:

> **a billing system for managing said stored credit according to parameters set by the consumer**, wherein said billing system debits said stored credit in accordance with purchases made using said debit card;
>
> **said billing system generating a statement detailing said debits to said stored credit and any interest or late fees due in accordance with said parameters**, said billing system further debiting an amount of said debits from the record of the stored credit and crediting said stored credit in the amount of any repayments of debits, payments of late fees and payments of interest made by the consumer; [emphasis added by Appellant]

However, the cited references fail to teach or suggest, among other limitations of Appellant's claims, a consumer setting parameters for repayment of the consumer's own debited funds, which parameter's include at least one of **a payment of interest and a payment of late fees**. The failure of the **ABA** reference to teach or suggest this feature of Appellant's claims is acknowledged on page 5 of the **final Office Action**. Additionally, Appellant believes that the **BONALLE** reference,

cited in the Office Action as allegedly disclosing the user selection of at least one of a payment of interest and a payment of late fees, also fails to teach or suggest this limitation of Appellant's claims.

Rather, **BONALLE** discloses a consumer choosing **when** to apply a promotional interest rate (determined by the financial institution) to the accumulated balance of money owed on **credit extended by a financial institution** to the consumer. See, for example, the Abstract of **BONALLE**, which states:

> The present invention includes a system and method for facilitating the customization of a transaction card having a set interest rate **by allowing a consumer to choose when** to use the promotional rate **or customize other promotional offers.** The consumer can select or customize the offer by telephoning a consumer service agent or entering the request via the Internet. The system adjusts the set interest rate to be equivalent to the promotional interest rate such that the promotional interest rate is activated on the calendar date and during the promotional time period. [emphasis added by Appellant]

See also, for example, paragraph [0011] of **BONALLE**, cited in **the final Office Action.** Appellant respectfully believes that consenting to **when** a particular interest rate or another applies, is **not** the same as **setting** the interest rate or late fees. Appellant's claims require the consumer to **set** at least one of the interest rate.

As such, **BONALLE** discloses a system and method for flexible promotional rates **to save customers money in interest paid to someone else**. Appellant's claimed invention is a savings and financing system and method in which the account holder has complete autonomy and the interest is **paid to the consumer**.

Additionally, as discussed above, like the **ABA** and **BONALLE** references, the **AMBROSE** reference also fails to teach or suggest, among other limitations of Appellant's claims, establishing a stored credit on behalf of a consumer, corresponding to an amount advanced/stored by the consumer and **the consumer setting parameters for repayment of amounts borrowed from the stored credit, wherein the parameters for repayment include parameters for at least one of a payment of interest and a payment of late fees,** as required by Appellant's claims. More particularly, the last sentence of the first page of the cited **AMBROSE** article states:

> You repay the loan to yourself with interest, **usually at the prime rate, now at 9.5 percent, or prime plus 1 percentage point.** [emphasis added by Appellant]

As such, in **AMBROSE** the loan must be repaid at **predefined interest rates set by the plan, and not set by the consumer,** as required by Appellant's claims. Thus, like **ABA** and **BONALLE, AMBROSE** fails to teach or suggest, among other limitations of Appellant's claims, pre-storing a credit of a

consumer, wherein **the consumer sets parameters including at least one of interest rate and late fees for repayment of amounts debited from the stored credit in accordance with purchases made by the consumer.**

As such, Appellant's claims are believed to be patentable over **ABA**, **BONALLE** and **AMBROSE**, whether taken alone, or in combination.

The **ORCHARD** and **PSECU** references, cited in the **final Office Action** against certain dependent claims, in combination with the **ABA**, **BONALLE** and **AMBROSE** references, do not cure the above-discussed deficiencies of the **ABA**, **BONALLE** and **AMBROSE** references.

As such, Appellant's claims are believed to be patentable over **ABA**, **BONALLE**, **AMBROSE**, **ORCHARD** and **PSECU**, whether taken alone, or in combination.

II. Claims 5, 11, and 12 are not obvious over The Bank Credit Card Business by American Bankers Association in view of Bonalle et al., U.S. Patent Application Publication 2003/0041025 in view of 401(k) too nice to pinch by Eileen Ambrose and further in view of Orchard Credit Cards under 35 U.S.C. § 103.

In item 27 of the **final Office Action**, claims 5, 11, and 12 were rejected under 35 U.S.C. § 103(a) as allegedly being

obvious over **ABA** in view of **BONALLE**, and further in view of **AMBROSE**, and further still in view of "Orchard Credit Cards" ("**ORCHARD**").

Appellant respectfully traverses the above rejections of claim 5, 11 and 12.

More particularly, for the reasons set forth in Section I, above, Appellant's independent claims are believed to be patentable over the **ABA**, **BONALLE** and **AMBROSE** references. The **ORCHARD** and **PSECU** references, cited in the **final Office Action** against certain dependent claims, in combination with the **ABA**, **BONALLE** and **AMBROSE** references, do not cure the above-discussed deficiencies of the **ABA**, **BONALLE** and **AMBROSE** references. As such, Appellant's claims 5, 11 and 12 are believed to be patentable over **ABA**, **BONALLE**, **AMBROSE**, **ORCHARD** and **PSECU**, whether taken alone, or in combination.

III. Claims 7 and 8 are not obvious over The Bank Credit Card Business by American Bankers Association in view of PSECU Capital Card under 35 U.S.C. § 103.

In item 31 of the **final Office Action**, claims 7 and 8 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over **ABA**, in view of "PSECU Capitol Card" ("**PSECU**").

Appellant respectfully traverses the above rejections of claim 7 and 8.

More particularly, for the reasons set forth in Section I, above, Appellant's independent claims are believed to be patentable over the **ABA**, **BONALLE** and **AMBROSE** references. The **ORCHARD** and **PSECU** references, cited in the **final Office Action** against certain dependent claims, in combination with the **ABA**, **BONALLE** and **AMBROSE** references, do not cure the above-discussed deficiencies of the **ABA**, **BONALLE** and **AMBROSE** references. As such, Appellant's claims 7 and 8 are believed to be patentable over **ABA**, **BONALLE**, **AMBROSE**, **ORCHARD** and **PSECU**, whether taken alone, or in combination.

IV. Conclusion.

For the foregoing reasons. among others, Appellant's claims are believed to be patentable over **ABA**, **BONALLE**, **AMBROSE**, **ORCHARD** and **PSECU**, whether taken alone, or in combination.

It is accordingly believed that none of the references, whether taken alone or in any combination, teach or suggest the features of claims 2, 15 and 22. Claims 2, 15 and 22 are, therefore, believed to be patentable over the art. The dependent claims are believed to be patentable as well because they all are ultimately dependent on claims 2 or 15.

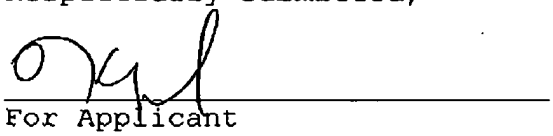
In view of the foregoing, reconsideration and allowance of claims 2 - 15 and 17 - 21 are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel would appreciate receiving a telephone call so that, if possible, patentable language can be worked out

If an extension of time for this paper is required, petition for extension is herewith made.

Please charge any fees that might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner Greenberg Stemer LLP, No. 12-1099.

Respectfully submitted,



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September 16, 2008

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